

CITY OF SACRAMENTO PLANNING COMMISSION  
1231 "I" STREET, SUITE 200, SACRAMENTO, CA 95814

APPLICANT	Steven Langford Architects, Inc.	18218 E. McDermott, Ste. D. Irvine, Ca	92714		
OWNER	Rusty Pelican Restaurants	27461 Calle Arroyo Court #205 San Juan Capistrano, Ca	92675		
PLANS BY	Steven Langford Architects Inc.	18218 E. McDermott, Ste. D. Irvine, Ca	92714		
FILING DATE	11-7-89	ENVIR. DET.	Negative Declaration	REPORT BY	CG:df
ASSESSOR'S PCL. NO.	001-0181-016				

- APPLICATION:
- A. Negative Declaration.
  - B. Special Permit to expand a restaurant 420 square feet and provide 27 seats in the Heavy Industrial (Parkway Corridor) (M-2{PC}) zone.
  - C. Variance to locate 21 parking spaces off-site.
  - D. Special Permit to expand a non-conforming structure which exceeds the height and setbacks required within the American River Parkway Corridor on 1.14+ developed acres in the M-2(PC) zone.

LOCATION: 500 Bercut Drive

PROPOSAL: The applicant is requesting the necessary entitlements to expand the Rusty Duck Restaurant by 420 square feet and add 27 seats.

PROJECT INFORMATION:

General Plan Designation:	Parks, Recreation, and Open Space
Existing Zoning of Site:	M-2(PC)
Existing Land Use of Site:	Restaurant

Surrounding Land Use and Zoning:

North:	American River: ARP-F
South:	Hotel and Restaurant; M-2
East:	Offices: M-2(PC)
West:	Restaurant; M-2(PC)

Parking Required:	99 spaces
Parking Provided On Site:	80 spaces
Parking Provided Off Site:	19 spaces
Total Parking Provided:	99 spaces
Property Dimensions:	Irregular
Property Area:	1.14+ acres
Square Footage of Existing Restaurant:	9,300 square feet
Square Footage of Addition:	420 square feet

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APPLC. NO. P89-391 MEETING DATE August 9, 1990 ITEM NO. 16

Total Building Height:	44 feet
Height of Addition:	29 feet
Street Improvements:	Existing
Utilities:	Existing
Exterior Building Materials:	Wood Siding
Roof Materials:	Cortin
Total Number of Fixed Seats:	296 seats

BACKGROUND INFORMATION: On November 21, 1990, the Planning Commission approved a variance to locate six parking spaces off site, on an adjacent parcel. This variance allowed an enclosure of an existing open porch area for seating. In 1987, the applicant applied for entitlements to develop the same restaurant addition as in the current application. This application was withdrawn. On April 22, 1988, the Planning Department approved the location of a satellite dish on the site subject to conditions. These conditions included a screening fence and landscaping.

PROJECT EVALUATION: Staff has the following comments:

A. Land Use and Zoning

The subject site consists of 1.14<sup>±</sup> acres developed with a restaurant in the Heavy Industrial (Parkway Corridor) (M-2{PC}) zone. The General Plan designates the site Parks, Recreation, and Open Space. The surrounding land use and zoning includes American River, zoned ARP-F, to the north; hotel and restaurant, zoned M-2, to the south; offices, zoned M-2(PC), to the east; and a restaurant, zoned M-2(PC), to the west.

B. Applicant's Proposal

The applicant is proposing to add 420 square feet to provide 27 additional seats for the Rusty Duck Restaurant. The restaurant currently seats 269 people and has 9,300 square feet. The addition encroaches approximately 15 feet into the required 25 foot setback from the reference line of the levee. The addition also exceeds the height limit allowed within the American River Parkway Corridor by approximately ten to twelve feet. In order to expand the seating area, additional parking must be provided. The applicant is requesting a variance to locate 19 parking spaces off site on an adjacent parcel.

C. Restaurant Expansion

The American River Parkway Corridor Overlay Zone requires a special permit for a restaurant use. The Rusty Duck was issued a Building Permit to begin construction June 23, 1975. The American River Parkway Corridor Section of the Zoning Ordinance became effective October 4, 1975. Since a Building Permit was issued prior to that ordinance, there was no requirement for a special permit initially. The expansion of the restaurant, however, requires a special permit. Staff has no objection to the 420 square feet restaurant expansion in order to provide 27 seats. It is only a ten percent increase of the fixed seats within the restaurant.

Since the restaurant was originally constructed prior to the American River Parkway Corridor Section of the Zoning Ordinance, the setbacks and height also make this a non-conforming structure. The current Zoning Ordinance, Section 12, requires a special permit to enlarge or expand a non-conforming structure. Staff has no objection to the expansion of the Rusty Duck Restaurant. The height of the addition is only ten or twelve feet higher than allowed by the Ordinance and this is less than the existing height of the building. The addition is also encroaching approximately 15 feet into the 25 foot setback required from the reference line of the levee. Staff has no objection to this encroachment. The line of the existing building is already at this point. The addition follows the existing line of the building. Copies of photographs taken around the project site are attached Exhibits D, E, and F.

D. Parking

A restaurant requires one parking space for every three fixed seats. The addition results in a total of 296 fixed seats in the Rusty Duck Restaurant. The parking required is 99 spaces. The Zoning Ordinance requires all the required parking be located on site. In 1979, a variance was approved for Rusty Duck to locate six required parking spaces off site. Although only six were required, the Rusty Duck Restaurant has an easement (attached Exhibit G) with the adjacent parcel for the use of 19 spaces. The applicant originally proposed to restripe these 19 standard size parking spaces, making them compact stalls, resulting in 21 spaces on the adjacent parcel. The agreement between Rusty Duck and the adjacent parcel is for 19 spaces only and does not allow Rusty Duck to restripe increasing the parking stalls. The applicant also proposes to restripe the on site parking lot, incorporating compact stalls. The total resulting parking is 99 spaces (80 on-site, 19 off-site). The compact parking stall ratio is 29 percent, which does not exceed the allowable 30 percent compact stall ratio.

The adjacent parcel where the off site parking is located, currently contains a restaurant (A.J. Bumps). The restaurant was issued a special permit December 9, 1976. The special permit was issued for a 264 seat restaurant which required 88 parking spaces. The site plan indicates 135 parking spaces, leaving 47 excess spaces. The existing restaurant site has adequate parking to be able to accommodate the off site parking required for the Rusty Duck Restaurant.

Staff has no objection to the off site parking variance request. The off site parking area is immediately adjacent to the subject site and there is adequate parking to serve both parcels. The applicant also has a recorded easement for the use of these 19 parking spaces.

E. Building Design

The addition consists of wood siding with cortin roof material. These materials are the same as the existing structure. The design of the addition is also compatible with the existing structure, therefore, staff has no objection to the building design.

Staff does, however, have concern regarding the satellite dish which was approved with conditions in 1988. One of these conditions was the screening fence be landscaped with climbing vines. This landscaping has not been installed. Staff recommends the landscaping be installed prior to the issuance of Building Permits.

F. Agency Comments

The proposed project was reviewed by Traffic Engineering, Engineering Development Services, Building Inspections, Fire, Community Services, City Arborist, and Richards Boulevard Trade Association. The following comments were received:

Engineering Development Services

An overall plan should be provided to assure the off site parking shown is not included in adjacent owners mandatory parking requirement. Provide a reciprocal parking, ingress, egress and maneuvering easement with adjacent owners.

Fire

The occupant load will have to be recalculated during plan review.

ENVIRONMENTAL DETERMINATION: The Environmental Services Manager has determined that the project, as proposed, will not have a significant impact to the environment; therefore, a Negative Declaration has been prepared. In compliance with Section 15070(B)1 of the California Environmental Quality Act Guidelines, the applicant has incorporated the following mandatory mitigation measures into the project plans to avoid identified effects or to mitigate such effects to a point where clearly no significant effects will occur:

Limit construction activities to weekdays between the hours of 8:00 a.m. and 5:00 p.m. (See attached Table 2)

Non-compliance with, or deletion of any of the above mitigation measures by any party will require the project to be reprocessed for additional environmental review. If this review determines that there is the possibility for significant adverse environmental impact due to the development of the project, additional mitigation measures may be required, or the applicant may be requested to prepare an Environmental Impact Report if identified impacts cannot be reduced to less than a significant level through mitigation.

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

- A. Ratify the Negative Declaration.
- B. Approve the Special Permit to expand a restaurant 420 square feet and provide 27 seats subject to conditions and based upon findings of fact which follow.
- C. Approve the Variance to locate 19 parking spaces off-site subject to conditions and based upon findings of fact which follow.
- D. Approve the Special Permit to expand a non-conforming structure which exceeds the height and setbacks required within the American River Parkway Corridor subject to conditions and based upon findings of fact which follow.

Conditions

1. The addition shall be developed as per the submitted plans. The off-site parking shall be limited to the 19 spaces as per the agreement;
2. The design and materials of the addition shall be compatible with the existing structure;
3. The number of seats for the addition shall not exceed 27;
4. The satellite dish landscape screening shall be installed prior to the issuance of Building Permits; and
5. The applicant shall comply with the mitigation measures of the negative declaration which include:
  - a. Limit construction activities to weekdays between the hours of 8:00 a.m. and 5:00 p.m. (See attached Table 2).

Findings of Fact - Special Permits

1. The project, as conditioned, is based upon sound principles of land use in that the restaurant development is compatible with the surrounding restaurant and office use, and is an expansion of an existing restaurant.
2. The project, as conditioned, will not be detrimental to the public safety or welfare, nor result in the creation of a public nuisance in that the addition does not exceed any heights or setbacks which have not already been established by the existing structure.
3. The project is consistent with the General Plan which designates the site Parks, Recreation and Open Space.

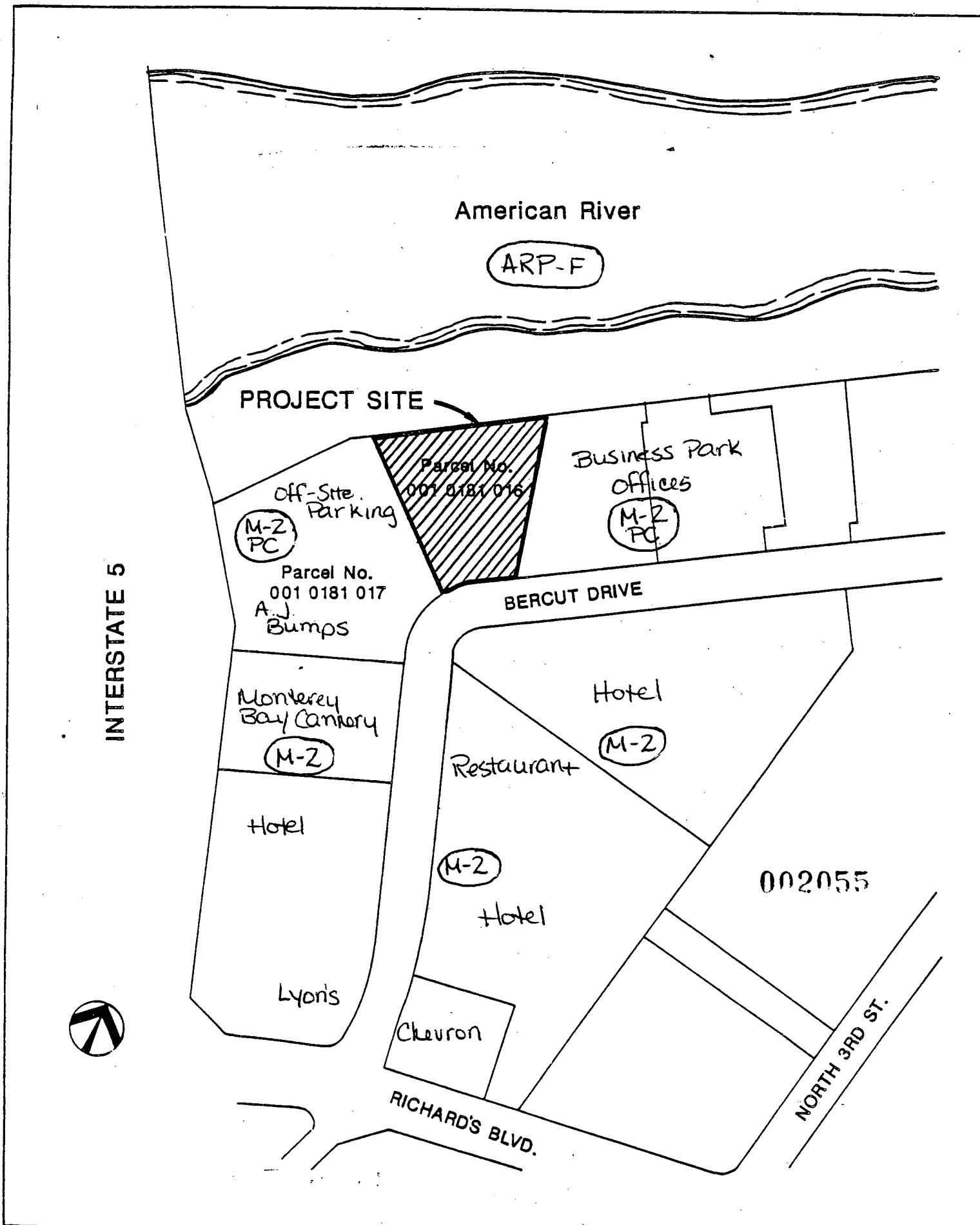
Findings of Fact - Variance

1. The project, as conditioned, is based upon sound principles of land use in that the restaurant development is compatible with the surrounding restaurant and office use, and is an expansion of an existing restaurant.
2. The project, as conditioned, will not be detrimental to the public safety or welfare, nor result in the creation of a public nuisance in that adequate parking is provided on site and on an adjacent parcel with a recorded easement for the use of the off site parking spaces.
3. Granting the variance does not constitute a special privilege extended to an individual property owner in that a variance would be granted to other property owners facing similar circumstances.

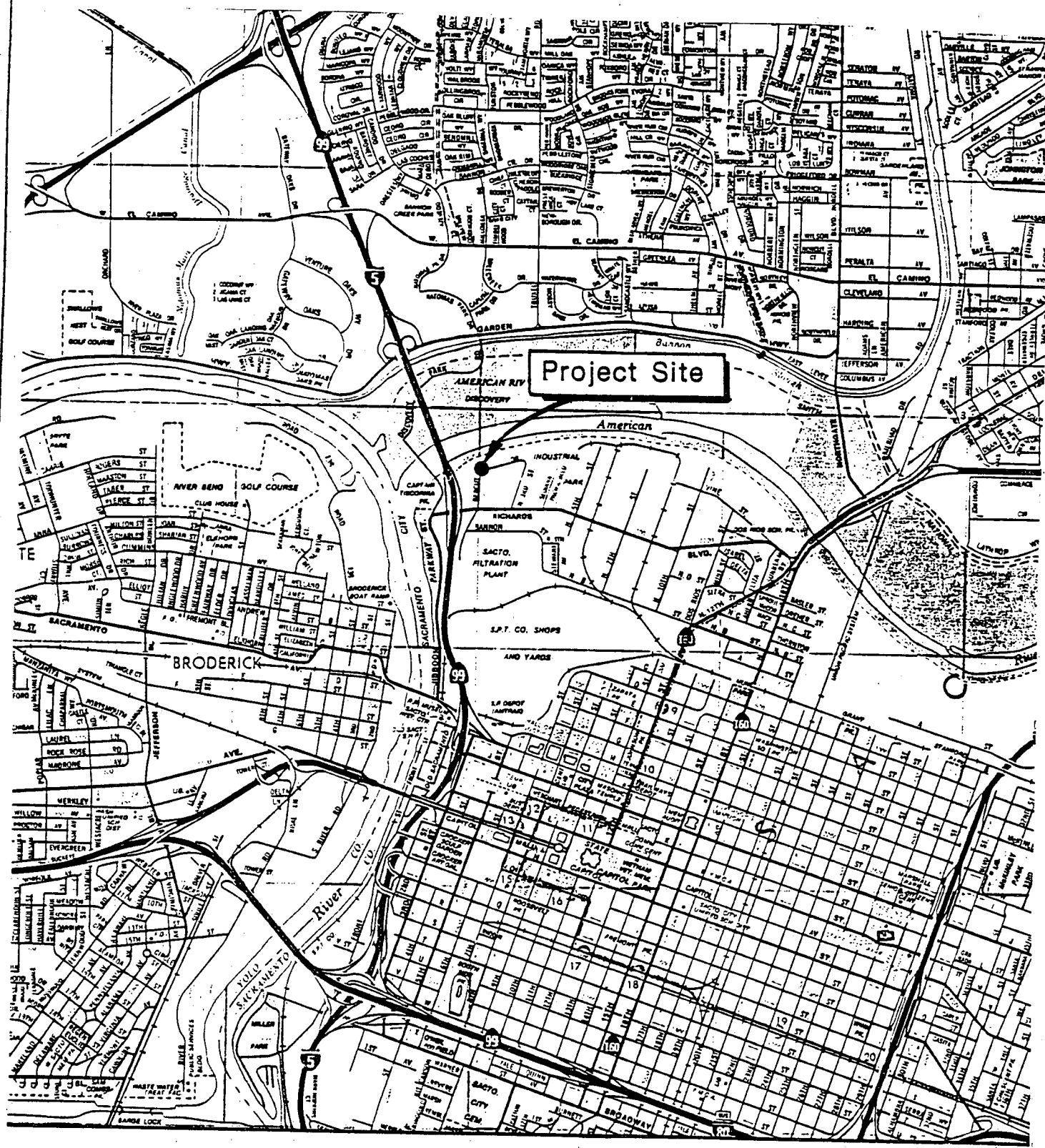
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4. Granting the variance does not constitute use variances in that a restaurant and associated parking is allowed in the M-2(PC) zone subject to special permit approval.
5. The project is consistent with the General Plan which designates the site Parks, Recreation, and Open Space.

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**LAND USE & ZONING MAP**



Project Site



0 2000  
FEET

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# VICINITY MAP

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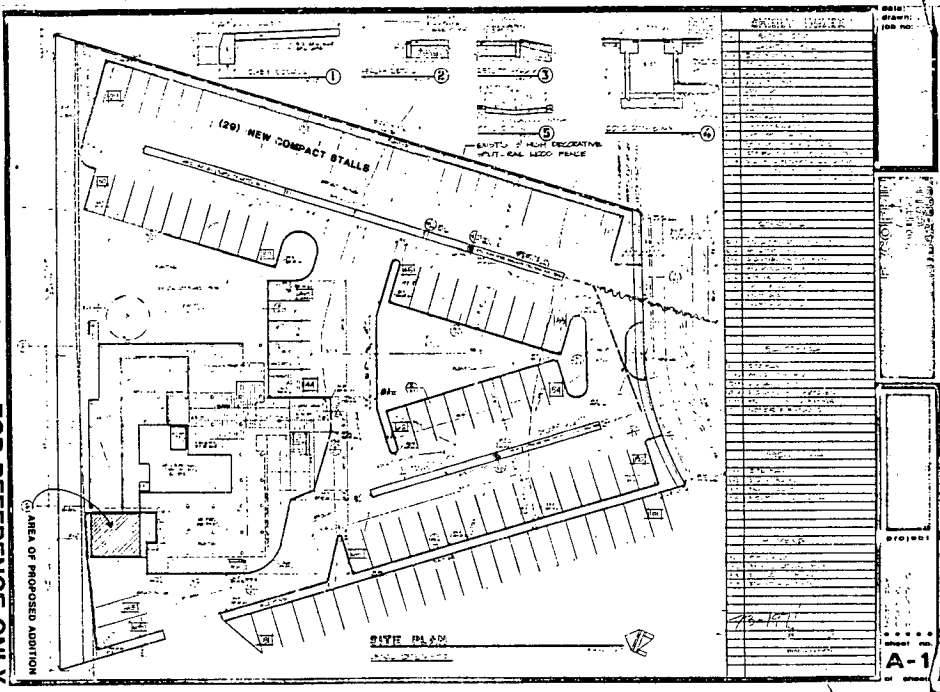
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FOR REFERENCE ONLY  
PROPOSED PARKING LOT LAYOUT



**PARKING TABULATION**

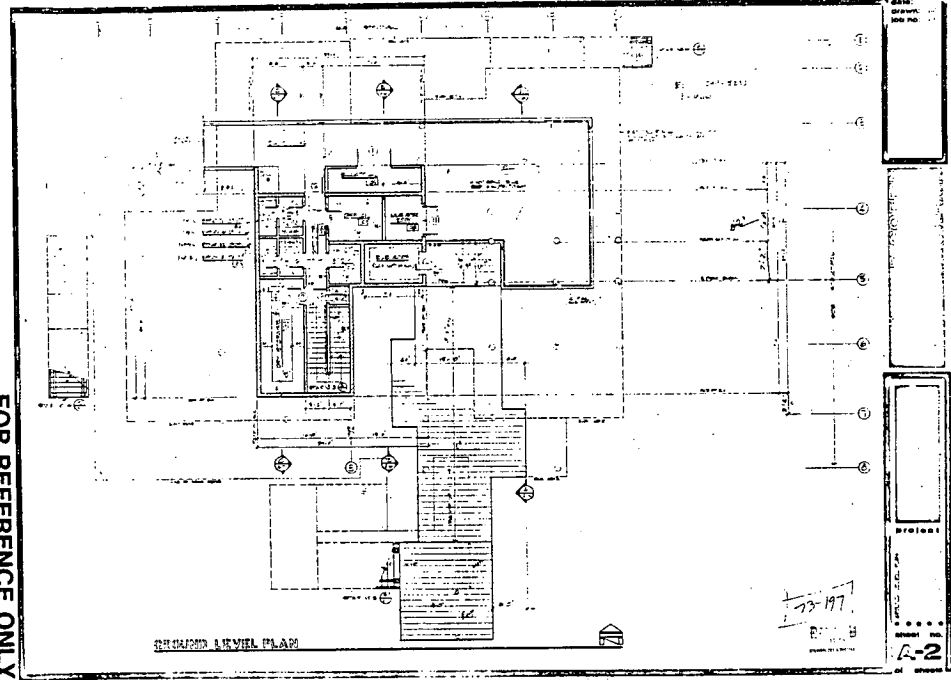
STALLS REQUIRED	101 STALLS
STALLS PROVIDED	20 STALLS
TOTAL STALLS - REQUIRED	81 STALLS

**SEAT COUNT**

100 SEATS	100 SEATS
DRINKS	100 SEATS
DRINKS/FOODS	100 SEATS
FOODS	100 SEATS
TOTAL	400 SEATS

200/100 = 200% SEATS PROVIDED

FOR REFERENCE ONLY



**EXHIBIT A**

**RUSTY DUCK**

ORD ARCHITECTS  
ARCHITECTURE INTERIOR DESIGN  
36152 Beach Blvd., Suite 201  
Huntington Beach, California 92647  
(714) 847-1189

DATE: 7-28-91  
DRAWN BY: [Signature]  
CHECKED BY: [Signature]  
SCALE: AS SHOWN  
PROJECT NO.: 002056  
SHEET NO.: A-1

EXHIBIT D

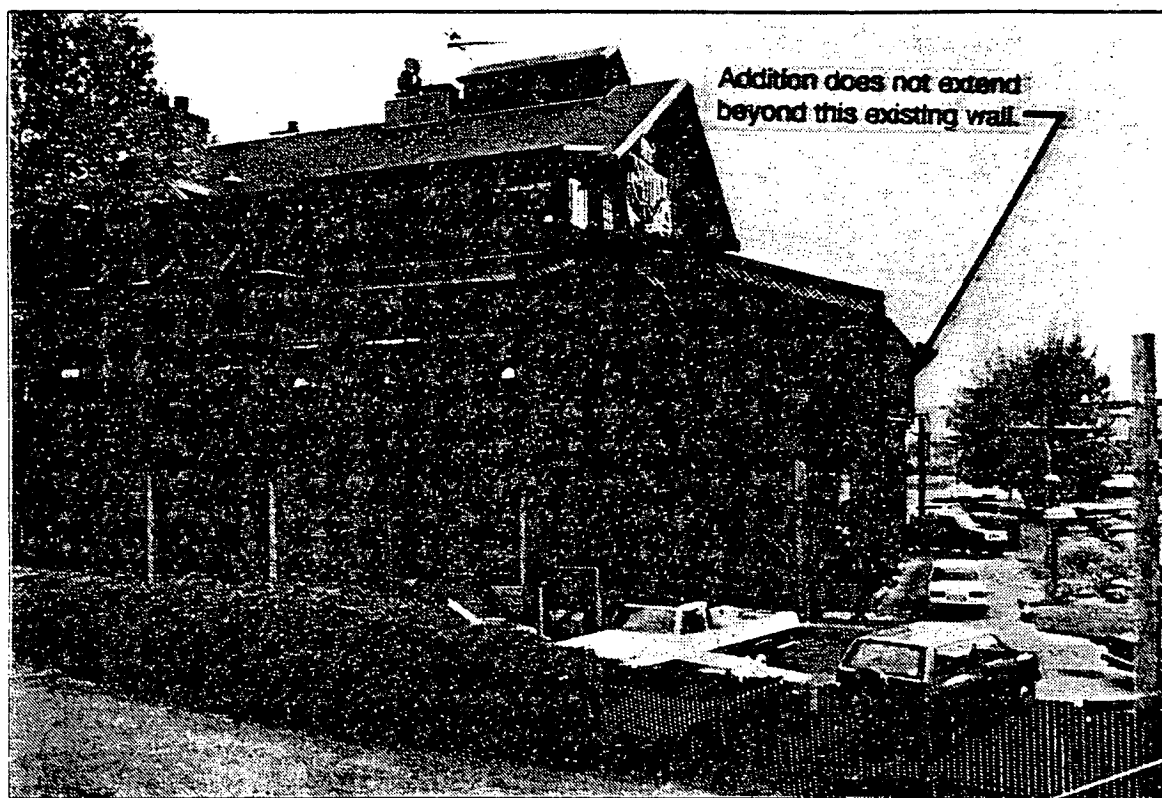


FIGURE 5. VIEW OF EXPANSION AREA (1)

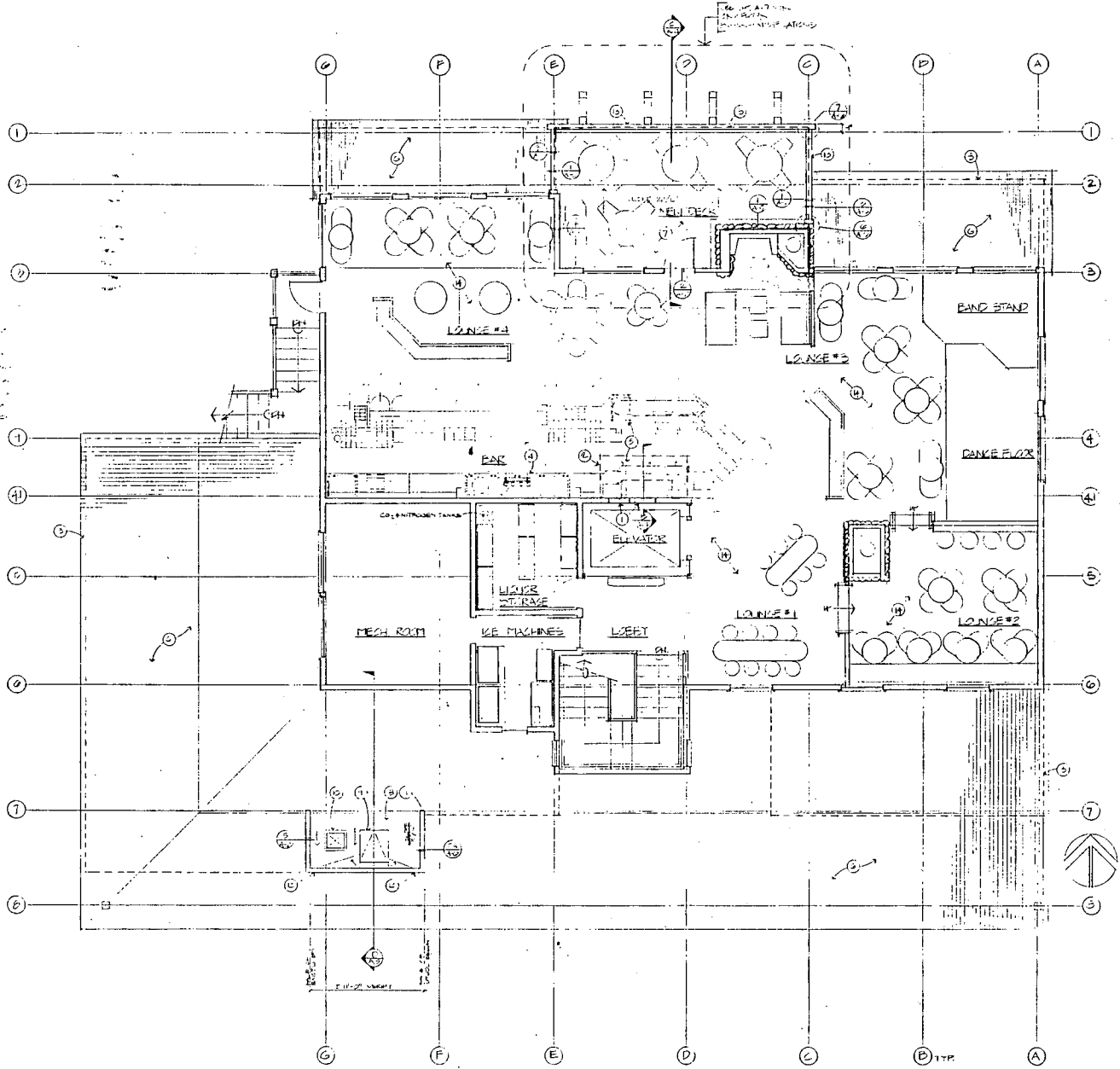
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- REV. NOTES:**
- REMOVE EXISTING MIRRORS AND SWIVEL OPENINGS WITH 1 HOUR RATED PARTITION CONSISTING OF 5/8" TYPE 'X' M.B. GYP. BOARD EACH SIDE OF 2x4 STUDS AT 16" O.C. MAX.
  - NEW GREASE HOOD. CONTRACTOR TO KEEP AREA ABOVE HOOD CLEAR OF ALL WELTIES.
  - LINE OF EXTERIOR HALL, BELOW.
  - EXISTING BAR FIXTURES TO REMAIN.
  - ADD BAR FIXTURES BY RAYCAL.
  - EXISTING LGM ROOF.
  - DECK-OUT WEATHERMAAT ROOF DECK COVERING INSTALLED BY A QUALIFIED DECK-OUT CONTRACTOR. APPROVED BY THE MANUFACTURER. COLOR TO BE #565 METAL. INSTALL IN COMPLETE COMPLIANCE WITH MANUFACTURER'S PRINTED INSTRUCTIONS OVER 1/2" EXISTING GRADE DECK. 1 PLYWOOD. 100 RING SPRAKE BRIMS 6" O.C. E.N. & S.W.. 12" O.C. F.W. OVER 15# FELT OVER 3 X 6 T & G SCOTCHING.
  - BUILT-UP CLASS 'B' COMPO. ROOFING O/ 1/2" PLYWOOD SHEATHING O/ 2 X 6 R.J. AT 16" O.C.
  - BILCO #5-20 30" X 36" ROOF SCUTTLE.
  - 6" MIN. HIGH LEVEL CURB FOR EXHAUST FAN. VERIFY SIZE AND LOCATION WITH EQUIPMENT INSTALLER.
  - PARAPET HALL TO 12" ABV. 3RD. FLOOR LEVEL.
  - 6" H X 4" H GRABRAIL SCUPPER THRU PARAPET.
  - 3"-6" MIN. HIGH GUARD RAIL.
  - CARPET BY RAYCAL (M.I.C.P.).



THIRD FLOOR PLAN

S.J. & L. LANGFORD ARCHITECTS  
 ARCHITECTURE INTERIOR DESIGN  
 1852 S. BAY BLVD., SUITE 200  
 HOUSTON, TEXAS 77058  
 (713) 865-1189

EXHIBIT C

RUSTY DUCK

PROJECT:

CONSULTANT:

DATE: 8/9/90  
 SCALE: 1/4" = 1'-0"  
 DESIGNER: JLF  
 DRAWN BY: JLF  
 CHECKED BY:

SHEET TITLE: THIRD FLOOR PLAN  
 SHEET NO: A-3  
 OF: 3

EXHIBIT F



FIGURE 8. VIEW FROM DISCOVERY PARK (4)



FIGURE 9. VIEW FROM DISCOVERY PARK, FROM UNDER  
INTERSTATE 5 OVERPASS (5)

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EXHIBIT E

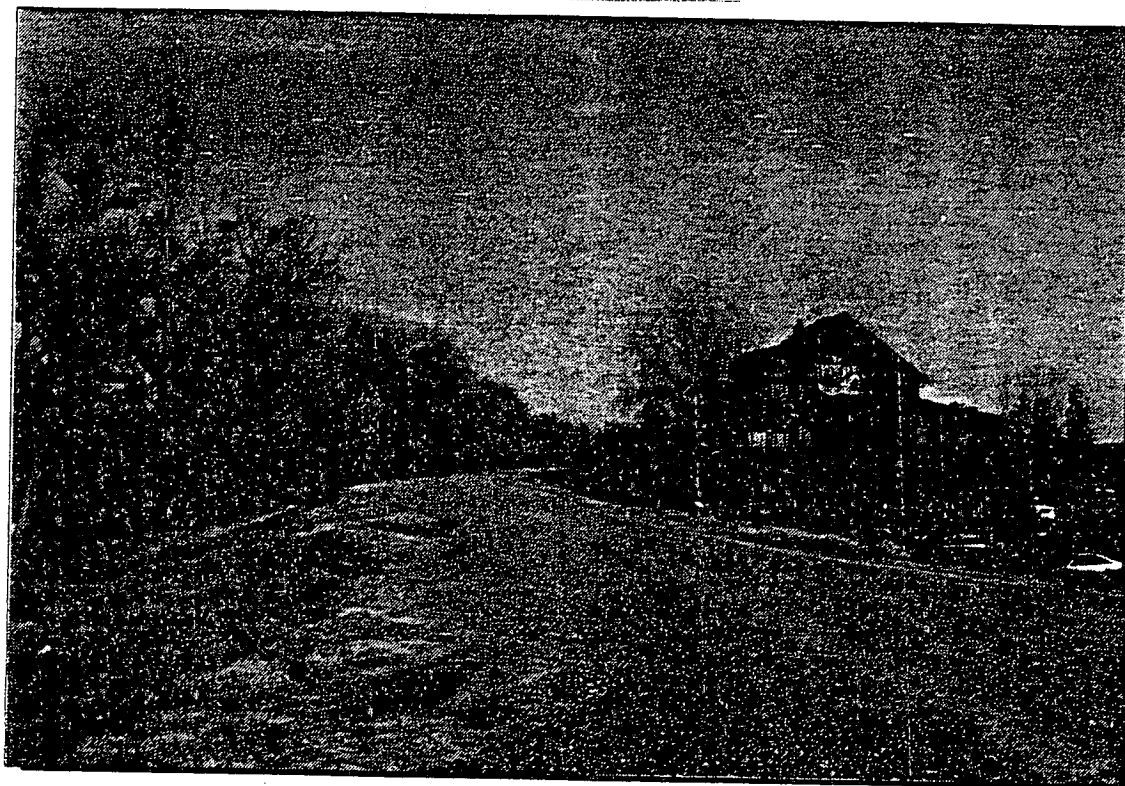


FIGURE 6. VIEW FROM SOUTH LEVEE (2)

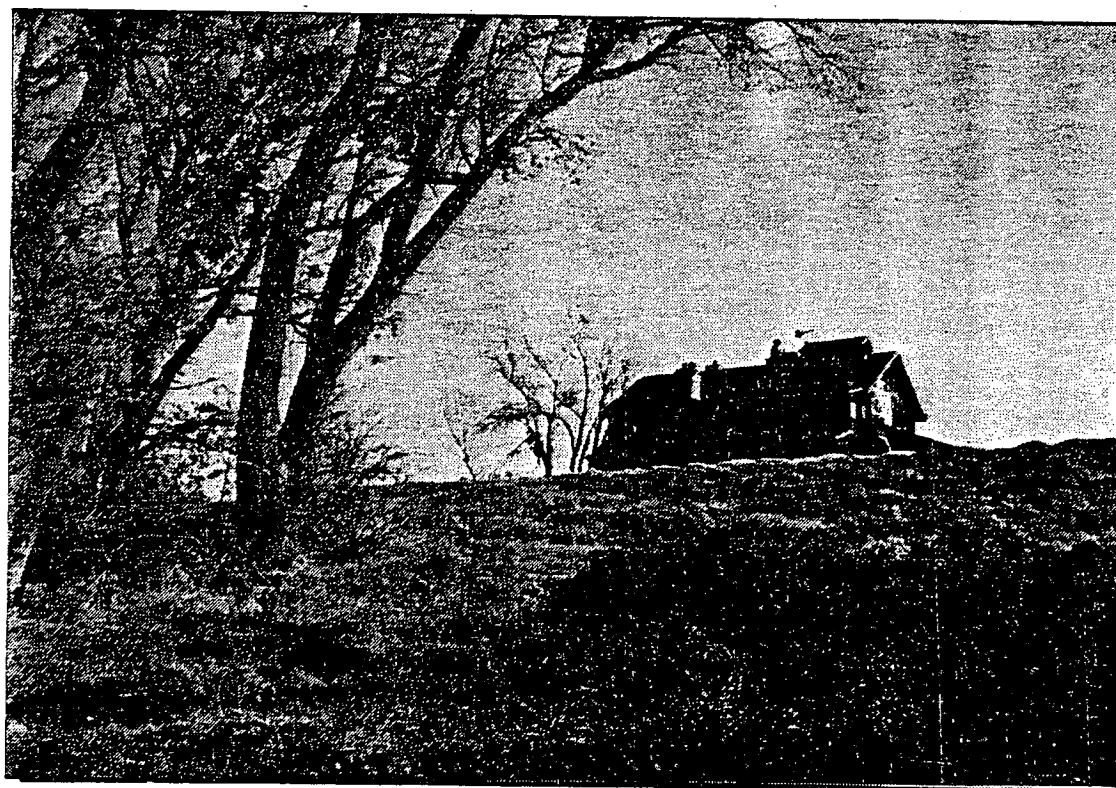


FIGURE 7. VIEW FROM SOUTH BANK (3)

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EXHIBIT G - 1  
RESERVATION OF EASEMENT AND  
RESTRICTIVE COVENANT

CITY OF SACRAMENTO  
CITY PLANNING DIVISION

FEB 2 1988

RECEIVED

By acceptance of the conveyance of the real property effected hereby, Grantee agrees as follows:

1. Definitions. As used herein, the following words and phrases shall have the meanings indicated:

a. "Grantee's Property" shall mean the real property conveyed by this Grant Deed.

b. "Grantor's Property" shall mean the real property located in Sacramento County, California, described as follows:

"Parcel One, as shown on that certain Parcel Map entitled "Portion of Parcel 1, Record of Surveys entitled "Portion of Sections 25, 26 and 35, Township 8 North, Range 4 East, M.D.B.&M.", recorded in the office of the Recorder of Sacramento County in Book 15 of Parcel Maps, at page 44 and as amended by that certain Certificate of Correction recorded January 2, 1974, in Book 74-01-02, page 219, Official Records of Sacramento County."

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EXHIBIT

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Table 2. Mitigation and Monitoring Program for Rusty Duck Restaurant Expansion

Impact	Mitigation Measure	Monitoring Schedule
Noise: Reduced quality of recreational activities in parkway during construction activities due to increased noise levels and possible exposure of parkway users to excessive noise levels	Limit construction activities to weekdays between the hours of 8:00 a.m. and 5:00 p.m.	
Public Services (Parks): Reduced quality of recreational activities in parkway due to construction-related disturbances	See mitigation measures under "Noise."	See monitoring schedule under "Noise."
Flood Hazards: Potential increase in number of people exposed to flood hazards	Ensure compliance with measures contained in City Flood Policy.	At time of building permit approval.
Visual/Aesthetics: Reduced quality of views south from American River Parkway east of I-5 bridge during construction activities	Limit construction activities to weekdays between the hours of 8:00 a.m. and 5:00 p.m.	See monitoring schedule under "Noise."

TABLE 2

( EXHIBIT G-3 )

recordation of this Grant Deed. The costs of such maintenance and repair shall be borne solely by the then owner of Grantee's Property; provided, however, that Grantor shall reimburse Grantee, within thirty (30) days of receipt of a copy of Grantee's request, for a portion of Grantee's actual cost of resurfacing or restriping the Easement Area determined by multiplying such actual cost times a fraction the numerator of which is nineteen (19) and the demoninator the total number of parking spaces on Grantee's Property including those in the Easement Area.

4. Relocation of Easement Area. Grantee shall have the right to relocate the Easement Area ("Replacement Easement") to a location other than on Grantor's Property if, and only if, (a) the nearest perimeter line of the Replacement Easement is not more than two hundred fifty (250) feet from the Grantor's Property line, (b) such Replacement Easement is accessible from the public street nearest Grantor's Property, (c) the Replacement Easement provides parking and access not less than provided in the Easement Area, (d) the Grantor's share of the costs of maintaining the Replacement Easement are no more than set forth in paragraph 3 hereof, (e) the Replacement Easement is improved with paving, lighting and landscaping of the same standard as the Easement Area, and (f) the Replacement Easement is made a matter of public record by

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( EXHIBIT G-2 )

2. Reservation of Easement. Grantor hereby reserves for the use and benefit of Grantor's Property, an easement for ingress, egress and parking for nineteen (19) automobiles over and across Grantee's Property (the "Easement Area"). It is the intention of Grantor and Grantee that the nineteen (19) parking spaces reserved for the benefit of Grantor's Property shall not be specifically designated, however, Grantee shall have the right to designate from time to time a particular area on the Grantee's Property as the Easement Area. The easement reserved hereby shall be non-exclusive unless Grantee elects to designate a particular area as the Easement Area in which event the Easement Area shall be exclusive and Grantor shall have the right to post signs or otherwise indicate that such spaces are for the exclusive use of Grantor and its customers, agents and employees. Grantor shall reconvey the Easement Area to Grantee, by quitclaim deed, if Grantor's Property (i) ceases to be used as a restaurant and (ii) the parking requirements of all governmental authorities for the proposed use of Grantor's Property can be satisfied without the Easement Area.

3. Maintenance of Easement Area. Grantee, and its successors and assigns, shall maintain and repair the Easement Area (including, without limitation, the periodic resurfacing and restriping thereof) so that the Easement Area shall at all times be in at least as good a condition as on the date of

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6. Mortgagee Protection. No breach of the covenants, conditions or restrictions hereof, nor the enforcement of any right of re-entry, shall affect, impair, defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of such covenants, conditions and restrictions shall be binding upon and effective against any person who acquires title to the Grantee's Property through foreclosure, trustee's sale or otherwise.

7. Benefit and Burden Run with Land. The benefits hereof shall inure to the benefit of Grantor and Grantor's successors and assigns in the Grantor's Property. The burdens hereof shall be binding upon the Grantee and Grantee's successors and assigns in the Grantee's Property.

8. Attorneys' Fees. In the event of any action for the enforcement hereof, the prevailing party shall be entitled to an award of reasonable attorneys' fees in addition to such other relief to which it is entitled.

9. Severability. If any provision hereof is determined to be unenforceable or invalid (in whole or part) the remaining provisions hereof shall remain in full force and effect.

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documents reasonably satisfactory to Grantor and Grantor receives a policy of title insurance with respect to its interest in the Replacement Easement. Grantee shall give Grantor thirty (30) days prior written notice of its election to relocate the Easement Area, including with such notice a metes and bounds description of the Replacement Easement and a copy of the documents proposed to create such Replacement Easement. Concurrently with the recordation of the documents creating the Replacement Easement, Grantor shall record, or cause to be recorded, a quitclaim deed releasing the Easement Area from the Grantee's Property.

5. Restrictive Covenant. Grantee's Property shall not be used for the purpose of (i) the sale of seafood for off-premises consumption, (ii) the sale for on-premises consumption of more than three (3) fresh, fin fish items at each of lunch and dinner or (iii) construction, operation or maintenance of a structure commonly known as an "oyster bar" or "seafood bar". The restrictions set forth herein shall lapse and be of no force or effect on the earlier of (a) Grantor's sale (other than a sale in connection with a reorganization to which Grantor is a party) of Grantor's Property or (b) seven (7) years from the date of recordation of this Grant Deed as to the restriction set forth in (ii) above or (c) two (2) years from the date of recordation of this Grant Deed as to the restriction set forth in (iii) above.

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# SACRAMENTO CITY PLANNING DIVISION

Application Information

Application taken by/date: \_\_\_\_\_

Project Location 500 Bercut Dr.  
 Assessor Parcel No. 001-0181-016  
 Owners Rusty Pelican Restaurant Phone No. \_\_\_\_\_  
 Address 27461 Calle Arroyo Ct. #205, San Juan Capistrano, CA 92675  
 Applicant Steven Langford Architects, Inc. Phone No. \_\_\_\_\_  
 Address 18218 E. McDermott, Ste. D, Irvine, CA 92714

**REQUESTED ENTITLEMENTS**

**ACTION ON ENTITLEMENTS**

	Commission date	Council date
<input checked="" type="checkbox"/> Environ. Determination <u>Negative Declaration</u>	<u>R 8-9-90</u>	
<input type="checkbox"/> General Plan Amend _____		
<input type="checkbox"/> Community Plan Amend _____		Res. _____
<input type="checkbox"/> Rezone _____		Res. _____
<input type="checkbox"/> Tentative Map _____		Ord. _____
<input checked="" type="checkbox"/> Special Permit <u>to expand a restaurant 420 sq. ft. and 27 seats in the M-2(PC) zone; to expand a non-conforming structure which excess the height &amp; setbacks required</u>	<u>AC 8-9-90</u>	
<input type="checkbox"/> Variance <u>within the American River Corridor on 1.14 ac. in the M-2(PC) zone.</u>		
<input type="checkbox"/> Plan Review Variance <u>-- to locate 21 parking spaces off-site</u>	<u>8-9-90</u>	
<input type="checkbox"/> PUD _____		
<input type="checkbox"/> Lot Line Adjustment _____		
<input type="checkbox"/> Other _____		

Sent to Applicant: 2-1-91  
Date

By: Suzanne H. Heston  
Sec. to Planning Commission

**Key to Entitlement Actions**

R — Ratified	D — Denied based on Findings of Fact	RMC — Recommend Approval W/amended conditions
A — Approved	RD — Recommend Denial	IAF — Intent to Approve based on Findings of Fact
AC — Approved W/conditions	RA — Recommend Approval	AFF — Approved based on Findings of Fact
AA — Approved W/amended conditions	RAC — Recommend Approval W/conditions	PDAC — Planning Director Approved with Conditions

**EXPIRATION**

**VARIANCE:** Any variance involving an action which requires a building permit shall expire at the end of one year unless a building permit is obtained within the variance term.

**SPECIAL PERMIT:** A use for which a Special Permit is granted must be established within two years after such permit is issued. If such use is not so established the Special Permit shall be deemed to have expired.

**TENTATIVE MAP:** Failure to record a final map within 2 years of the date of approval or conditional approval of a tentative map shall terminate all proceedings.

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**NOTE:** Violation of any of the foregoing conditions will constitute grounds for revocation of this permit. Building permits are required in the event any building construction is planned. The County Assessor is notified of actions taken on rezonings, special permits and variances.

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White — applicant permit

Yellow — department file

Pink — permit book